

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ANTHONY HOEPF,

Plaintiff,

vs

PEDRO OBREGON,

Defendant.

Case No. 1:05-cv-200

Dlott, J.

Black, M.J.

**REPORT AND
RECOMMENDATION**

This matter is before the Court on plaintiff's second motion for default judgment (Doc. 17) and the response of the Ohio Department of Rehabilitation and Correction thereto. (Doc. 19).

Plaintiff is an inmate at the Southern Ohio Correctional Facility (SOCF). He initiated this action on March 29, 2005 against defendant Pedro Obregon, a former physician at SOCF, alleging that defendant was deliberately indifferent to plaintiff's serious medical needs in violation of the Eighth Amendment. The Court's docket reflects a return of service on defendant Obregon on August 25, 2005. (Doc. 8). On September 2, 2005, the Court ordered defendant Obregon to show cause in writing why default judgment should not be entered against him for his failure to file an answer or otherwise defend plaintiff's complaint. (Doc. 9). The Court also ordered that a copy of the Show Cause Order be mailed to the Office of the Ohio Attorney General, Corrections Litigation Section. *Id.*

In response to the Show Cause Order, the Attorney General stated that at the time the summons and complaint were mailed, defendant Obregon was no longer employed at SOCF. Consequently, defendant Obregon never received personal service as required by Rule 4, Fed. R.

Civ. P.

The Court has since obtained *in camera* the home address of defendant Obregon and has instructed the United States Marshal Service to attempt service of process on defendant Obregon without disclosing the home address to plaintiff. (Docs. 12, 14, 15). The Court's docket does not reflect that defendant Obregon has been personally served with the complaint and summons in this matter. Accordingly, default judgment against defendant Obregon is not warranted at this time.

IT IS THEREFORE RECOMMENDED THAT plaintiff's motion for default judgment (Doc. 17) be **DENIED**.

Date: 1/3/2006

s/Timothy S. Black
Timothy S. Black
United States Magistrate Judge

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**NOTICE TO THE PARTIES REGARDING THE FILING OF OBJECTIONS TO THIS
R&R**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **TEN (10) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **TEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).